IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8249 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HARILAL RAMJI DARI

Versus

STATE OF GUJARAT

Appearance:

MR JR NANAVATI for Petitioner

MR VM PANCHOLI, AGP for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 14/03/2000

ORAL JUDGEMENT

#. Heard the learned counsel for the parties.

#. The petitioner was granted land admeasuring 1223 sq.mts. situated at Veraval under the order dated 26.2.73 of the Collector, Junagadh, District: Junagadh. This land was allotted to the petitioner for industrial purposes, i.e. for industry of cement pipes and mosaic tiles. The petitioner has not used the land for the said purpose. Under the notice dated 29.1.88, the respondent No.2 called upon the petitioner to show cause why this allotment should not be cancelled. It is stated in the show cause notice that the land is lying unused and that the petitioner committed breach of conditions No. 7, 9,

12, 14, 15 & 16. The petitioner filed reply to the said show cause notice. He has come up with the case that he started on small scale, his business of cement pipes etc. and thereafter there was disastrous cyclone at Veraval whereby the entire industry was destroyed. It is further stated that on account of financial and other domestic difficulties the petitioner could not restart his business. It is stated in the reply to the show cause notice that he made application to respondent No.2 for transfer of land in the name of his son. Under the order dated 23.3.88, the respondent No.2 confiscated the land to the State Government. That order has been challenged by petitioner before the State Government but the challenge failed. The order of the State Government is dated 15.10.88. Hence this special civil application before this court.

#. The learned counsel for the petitioner has failed to show any evidence on the record of this special civil application that the petitioner started small scale industry on the land. The learned counsel for the petitioner very fairly admits before this court that the petitioner has no evidence whatsoever in support of his case that the small scale industry has been started on the land but in disastrous cyclone at Veraval, his entire industry was washed off. What Mr.Nanavati, the learned counsel for the petitioner states before this court that the entire record has also been washed of in the disastrous cyclone. It is very easy and convenient to take such a plea. In fact, the petitioner has taken this plea that cyclone was there but it is very difficult to accept that the petitioner could not have any evidence of starting of the small scale industry in the plot if it really would have been started. The learned counsel for the petitioner fairly conceded that this disastrous cyclone was of the year 1985. After the cyclone the petitioner has not submitted any report to the respondents. That goes to show that in fact, what the petitioner is stating as a defence would have been correct, then this action should have been taken. The very fact that the petitioner is praying for transfer of this land in the name of his sons goes to show that whatever the defence submitted by petitioner is only concocted and manufactured. In fact, it is a clear case where the petitioner has breached the conditions No.9, 12, 14, 15 & 16 of the allotment of land and both the authorities are correct in their approach to order for confiscation of this plot to the State Government. It is a clear illustration how people are frustrating this very scheme of development and industrialization in the State. This plot has been allotted to the petitioner, but he has

not used the same, meaning thereby, a real person who could have used the plot for industrial purpose has been deprived of the same.

#. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated. The petitioner is directed to pay Rs.500/= as costs of this writ petition to the respondents.

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(sunil)